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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO.    |
|---|-------------|----------------------|---------------------|---------------------|
| 10/088,267  | 03/13/2002  | Artur Schwoerer      | 2895                | 8808                |
| 26822   | 7590        | 12/09/2003           | EXAMINER            |                     |
| WALTER A. HACKLER<br>2372 S.E. BRISTOL, SUITE B<br>NEWPORT BEACH, CA 92660-0755 |             |                      |                     | FERGUSON, MICHAEL P |
| ART UNIT  |             | PAPER NUMBER         |                     |                     |
|   |             | 3679                 |                     |                     |

DATE MAILED: 12/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                     |                  |
|------------------------------|---------------------|------------------|
| <b>Office Action Summary</b> | Application No.     | Applicant(s)     |
|                              | 10/088,267          | SCHWOERER, ARTUR |
|                              | Examiner            | Art Unit         |
|                              | Michael P. Ferguson | 3679             |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 10-25 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 10-25 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 13 March 2002 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

|  |  |
|--|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                               | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

**DETAILED ACTION**

***Claim Objections***

1. Claims 11, 14, 16 and 19-25 are objected to because of the following informalities:

Claim 11 (line 2) recites "claim 1". It should recite --claim 10--.

Claim 14 (line 3) recites "on inner surface". It should recite --on an inner surface--.

Claim 16 (line 5) recites "stationary claws". It should recite --stationary claw--.

Claim 19 (line 1) recites "claim 1". It should recite --claim 18--.

Claim 20 (line 1) recites "claim 10". It should recite --claim 18--.

Claim 21 (line 1) recites "claim 12". It should recite --claim 20--.

Claim 22 (line 1) recites "claim 12". It should recite --claim 20--.

Claim 22 (line 2) recites "on inner surface". It should recite --on an inner surface--.

Claim 23 (line 1) recites "claim 10 or 11". It should recite --claim 18 or 19--.

Claim 24 (line 1) recites "claim 10 or 11". It should recite --claim 18 or 19--.

Claim 24 (line 4) recites "stationary claws". It should recite --stationary claw--.

Claim 25 (line 1) recites "claim 16". It should recite --claim 24--.

For the purpose of examining the application, it is assumed that appropriate correction has been made.

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10, 11, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Peri-Werk Artur Schwörer (DE 35 46 832).

As to claim 10, Péri-Werk Artur Schwörer discloses a turnbuckle device **10** capable of mutually clamping two concrete shell elements across a joint therebetween, the shell elements each including a frame with longitudinal and transverse struts, the turnbuckle device having:

means **12** for retaining the turnbuckle device on one of the longitudinal and transverse struts (during separation and clamping together of the shell elements; longitudinal strut **4** is frictionally engaged between spaced apart first claw members **12** to retain the device on the strut; Figure 9) and positioning the turnbuckle device across abutting edges of the shell elements;

a first lock part **12** including a stationary first claw **12** for engaging one of the frames, the first claw being configured for direct engagement with the respective frame;

a second lock part **13** pivotally disposed with respect to the first lock part (second lock part **13** pivoting to allow for serrations of the second lock part to disengage with serrations **24** of first lock part **12**, allowing the second lock part to be displaced along

the first lock part) and including a second claw **13** configured for direct engagement with another of the frames;

arresting means **32,60,61,62** for limiting a pivoting range of the second lock part in order that the second claw prevents release of the turnbuckle device from the shell elements and optimally limits movability of the turnbuckle device (Figures 1-4, abstract).

As to claim 11, Peri-Werk Artur Schwörer discloses a device **10** wherein arresting means **32** are operable (removed from side openings **30**) for enabling the turnbuckle device to be removed from shell elements (Figures 2 and 3, abstract).

As to claim 18, Peri-Werk Artur Schwörer discloses a turnbuckle device **10** capable of mutually clamping two concrete shell elements across a joint therebetween, the shell elements each including a frame with longitudinal and transverse struts, the turnbuckle device having:

means **12** for retaining the turnbuckle device on one of the longitudinal and transverse struts during separation of the shell elements (longitudinal strut **4** is frictionally engaged between spaced apart first claw members **12** to retain the device on the strut; Figure 9);

means **12** for positioning the turnbuckle device across abutting edges of the shell elements;

a first lock part **12** including a stationary first claw **12** for engaging one of the frames, the first claw being configured for direct engagement with the respective frame;

a second lock part **13** pivotally disposed with respect to the first lock part (second lock part **13** pivoting to allow for serrations of the second lock part to disengage with

serrations **24** of first lock part **12**, allowing the second lock part to be displaced along the first lock part) and including a second claw **13** configured for direct engagement with another of the frames;

arresting means **32,60,61,62** for limiting a pivoting range of the second lock part in order that the second claw prevents release of the turnbuckle device from the shell elements and optimally limits movability of the turnbuckle device (Figures 1-4, abstract).

As to claim 19, Peri-Werk Artur Schwörer discloses a device **10** wherein arresting means **32** are operable (removed from side openings **30**) for enabling the turnbuckle device to be removed from shell elements (Figures 2 and 3, abstract).

3. Claims 10, 11, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Hünnebeck (EP 201 887).

As to claim 10, Hünnebeck discloses a turnbuckle device **1** capable of mutually clamping two concrete shell elements across a joint therebetween, the shell elements each including a frame with longitudinal and transverse struts, the turnbuckle device having:

means **2,3,22** for retaining the turnbuckle device on one of the longitudinal and transverse struts (during clamping together of the shell elements) and positioning the turnbuckle device across abutting edges of the shell elements;

a first lock part **2** including a stationary first claw **2** for engaging one of the frames, the first claw being configured for direct engagement with the respective frame;

a second lock part **3** pivotally disposed with respect to the first lock part and including a second claw **3** configured for direct engagement with another of the frames;

arresting means **4,12,13** for limiting a pivoting range of the second lock part in order that the second claw prevents release of the turnbuckle device from the shell elements and optimally limits movability of the turnbuckle device (Figures 1-3, abstract).

As to claim 11, Hünnebeck discloses a device **1** wherein arresting means **13** are operable for enabling the turnbuckle device to be removed from shell elements (Figure 3).

As to claim 15, Hünnebeck discloses a device **1** wherein retaining means **3** comprise a shackle **3** which projects from a rod-shaped body **5** which holds and displaceably guides a first lock part **2** (relative to the shackle **3**), and further comprise a bolt mounting means **4** for insertion into a first opening in the shackle (Figure 1).

As to claim 16, Hünnebeck discloses a device wherein retaining means **2** comprise a pivoting lever **4,13** which is disposed in the region of a stationary claw **2** (Figure 1).

#### ***Allowable Subject Matter***

4. Claims 12-14, 17 and 20-25 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

As to claim 12, Hünnebeck fails to disclose a device wherein a first lock part comprises stationary first claws and means for retaining comprise archings, the archings protruding from inner surfaces of the stationary claws.

As to claim 17, Hünnebeck fails to disclose a device wherein arresting means comprise a wedge which, when displaced in the direction of force of gravity, blocks a

pivotal second claw in a pivoted inner position state and clamps the turnbuckle device for mutual clamping of two shell elements, and when displaced against the force of gravity, releases the pivotal second claw for pivoting and displacement with respect to a first stationary claw.

It would not have been obvious to one having ordinary skill in the art at the time the invention was made to modify a device as disclosed by Hünnebeck to have any of the above mentioned elements as such modifications are neither taught nor suggested by the prior art.

As to claim 20, Peri-Werk Artur Schwörer fails to disclose a device wherein a first lock part comprises stationary first claws and means for retaining comprise archings, the archings protruding from inner surfaces of the stationary claws.

As to claim 23, Peri-Werk Artur Schwörer fails to disclose a device wherein a retaining means comprises a shackle which projects from a rod-shaped body which holds and displaceably guides a first lock part, and the device further comprises a bolt mounting means for insertion into a first opening in the shackle.

As to claim 24, Peri-Werk Artur Schwörer fails to disclose a device wherein a retaining means comprises a pivoting or tilting lever which is disposed on a stationary claw or in the region of the stationary claw.

It would not have been obvious to one having ordinary skill in the art at the time the invention was made to modify a device as disclosed by Peri-Werk Artur Schwörer to have any of the above mentioned elements as such modifications are neither taught nor suggested by the prior art.

***Response to Arguments***

5. Applicant's arguments filed October 20, 2003 have been fully considered but they are not persuasive.

As to claim 10, Attorney argues that:

Peri-Werk Artur Schwörer fails to disclose a turnbuckle device having *means for retaining the turnbuckle device on one of the longitudinal and transverse struts.*

Examiner does not agree. As to claim 10, Peri-Werk Artur Schwörer discloses a turnbuckle device having means **12** for retaining the turnbuckle device on one of the longitudinal and transverse struts (during separation and clamping together of the shell elements; longitudinal strut **4** is frictionally engaged between spaced apart first claw members **12** to retain the device on the strut; Figures 1-4 and 9).

As to claim 10, Attorney argues that:

Hünnebeck fails to disclose a turnbuckle device having *means for retaining the turnbuckle device on one of the longitudinal and transverse struts.*

Examiner does not agree. As to claim 10, Hünnebeck discloses a turnbuckle device having means **2,3,22** for retaining the turnbuckle device on one of the longitudinal and transverse struts (during clamping together of the shell elements; Figures 1-3).

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Ferguson whose telephone number is (703)308-8591. The examiner can normally be reached on M-F (7:30-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne H. Browne can be reached on (703)308-1159. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1114.

MPF



**Lynne H. Browne**  
**Supervisory Patent Examiner**  
**Group Art Unit 3679**